S.B. CIVIL WRIT PETITION NO. 1294/2006.

KHUSHI MOHD. & ANR.
VS.
KALE KHAN & ORS.

DATE OF ORDER : 17th September, 2007

HON'BLE MR. GOVIND MATHUR, J.

Mr. B.N. Kalla for the petitioner.
Mr. S.N. Tiwari, Dy. Government Advocate.
Mr. B.S. Sandhu for the respondents.

By this petition for writ validity, propriety and correctness of the order dated 03.01.2006 passed by Superintending Engineer, Irrigation Circle, Hanumangarh Junction is questioned by the petitioners.

In brief, facts of the case are that in a suit for declaration preferred by the petitioners under Section 53 of Rajasthan Tenancy Act before Sub Divisional Officer, Sriganganagar Camp Sadulsahar, an application for temporary injunction was also filed, wherein by order dated 23.07.2005 defendant respondents were restrained to interfere with the portion of the land in possession of the petitioner till disposal of the suit. The petitioner in the suit referred above claimed for partition of the land with an assertion that he was having

possession of the land measuring 21- 16 ½ bighas. After issuance of the interim order as above, the Executive Engineer by the order dated 24.10.2005 allowed irrigation facility to the respondent Kale Khan for his part of land measuring 23.15 bighas. The order aforesaid was affirmed by the appellate authority.

The contention of counsel for the petitioner is that the authorities under the Irrigation and Drainage Act, 1954 were having no authority to decide the issue regarding the irrigation facility as in revenue suit by the order dated 23.07.2005, a temporary injunction was granted not to interfere with the land in possession of the petitioner.

I do not find any substance in the arguments so raised. The irrigation authorities by excepting whatever portion claimed by the petitioner in the revenue suit, allowed irrigation facility to respondent Kale Khan. The authorities under the Irrigation and Drainage Act also secured claim of the petitioner to the extent 21-16 ½ bighas land in his possession is concerned. The irrigation facility provided to the respondent Kale Khan for land measuring 23.15 bighas, as a matter of fact is in true compliance of the interim order passed by the Sub Divisional Officer on 23.07.2005, thus, the order impugned does

not suffer from any error that may warrant interference of this Court under Article 227 of the Constitution of India.

The writ petition is accordingly dismissed.

(GOVIND MATHUR)J.

Anil/